



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 27, 1997

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Enid Greene, Treasurer
Enid '94 and Enid '96
P.O. Box 11232
Salt Lake City, UT 84147

RE: MURs 4322 and 4650
Enid '94, and Enid Greene, as Treasurer
and Enid '96, and Enid Greene, as Treasurer

Dear Ms. Greene:

On 17 June, 1997, the Federal Election Commission found that there is reason to believe Enid '94 and Enid '96 and you, as treasurer, violated 2 U.S.C. § 434(b), 2 U.S.C. § 441a(f), 2 U.S.C. § 441f, and 11 C.F.R. § 110.4(c)(2), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Commission also found reason to believe that Enid '94 and you, as treasurer, violated 2 U.S.C. § 441b(a). The joint Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Kamau Philbert, the attorney assigned to this matter, at (202) 219- 3690.

Sincerely,

A handwritten signature in dark ink, appearing to read "John Warren McGarry", written over a horizontal line.

John Warren McGarry
Chairman

Enclosures
Procedures
Designation of Counsel Form
Factual and Legal Analysis

FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Enid '94 and Enid Greene, as treasurer
 Enid '96 and Enid Greene, as treasurer

MUR: 4322 and 4650

I. GENERATION OF MATTER

This matter was generated by a complaint filed with the Federal Election Commission and information ascertained by the Federal Election Commission ("the Commission") in the normal course of carrying out its supervisory responsibilities. See 2 U.S.C. § 437g(a)(1) and (2).

On 11 November, 1995, Joseph P. Waldholtz, treasurer of Enid '94 and Enid '96 and the husband of former U.S. Congresswoman Enid Greene Waldholtz, fled Washington, D.C. while the Enid '94 committee was under investigation by the Federal Bureau of Investigation and the U.S. Attorney's Office for the District of Columbia. Shortly thereafter, former Representative Greene Waldholtz removed Mr. Waldholtz as treasurer, assumed the position herself, and retained the national accounting firm of Coopers & Lybrand to conduct a forensic reconstruction of the campaign records of both committees. On 8 March, 1996, Michael H. Chanin, Esq., filed a complaint with the Commission on behalf of Enid '94, Enid '96, and Enid Greene Waldholtz, as treasurer. Based on the Coopers & Lybrand analysis, the complaint alleges numerous violations of federal election laws by former treasurer Joseph Waldholtz.

Prior to filing the complaint, on 31 January, 1996, Enid Greene Waldholtz, as treasurer of both of her committees, filed 1995 Year End Reports for Enid '94 and Enid '96 and notified the Commission of inaccuracies in the committees' reports. The Commission was advised of the Coopers & Lybrand effort and that the committees would be filing amendments to the reports.

Based on a review of the 1995 Year End Reports, Enid '94 and Enid '96 accepted excessive contributions from Mr. Waldholtz.

II. FACTUAL AND LEGAL ANALYSIS

A. Background

On 21 December, 1993, former U.S. Representative Enid Greene Waldholtz (hereinafter "Ms. Greene") filed a Statement of Candidacy for the U.S. House of Representatives for the Second District of Utah and designated Enid '94 as her principal campaign committee for the 1994 election, which was held on 8 November, 1994. A Statement of Organization for Enid '94 was filed on 21 December, 1993 designating Mr. Waldholtz as treasurer and Custodian of Records, and KayLin Loveland as the assistant treasurer. Prior to that date, on 1 December, 1993, a campaign checking account for Enid '94 was established at First Security Bank in Salt Lake City, Utah. As treasurer of Enid '94, Mr. Waldholtz was the only person authorized to access the campaign account.

According to newspaper reports, fundraising initially was slow for Ms. Greene's 1994 campaign. However, beginning in July, 1994, substantial amounts of money began to appear in her campaign account under her name: nearly \$800,000 in September; \$650,000 in October and another \$270,000 in November. These funds enabled Ms. Greene to buy substantial amounts of television time and send out personalized direct mailings targeting her competitors, incumbent Democrat Karen Shepherd and Independent candidate Merrill Cook. Ms. Greene won the 1994 election with 46 percent of the vote. Hers was the most expensive congressional campaign in that election cycle. In January, 1995, Ms. Greene was sworn in as a Member of Congress, and she and Mr. Waldholtz moved to Washington, D.C. Subsequently, Ms. Greene

opened two separate joint checking accounts at the Wright Patman Congressional Credit Union ("Congressional Credit Union").

On 9 February, 1995, a campaign checking account was established in the name of Enid '96 ("Enid '96 Account") at First Security Bank in Salt Lake City, Utah. Mr. Waldholtz and R. Aaron Edens were the only individuals authorized to access the account. On 31 July, 1995, Mr. Waldholtz filed a Statement of Organization establishing Enid '96 as Ms. Greene's principal campaign committee for the 1996 election. Mr. Waldholtz was the designated treasurer for the committee.

In the months following the 1994 election, newspaper reports show that questions were being raised in Utah about the source of the large sums of money Ms. Greene was reported to have spent on the 1994 campaign. Media within the Salt Lake City area reportedly discovered a long trail of bounced checks, unpaid rent and angry creditors of the Waldholtzs, who offered various explanations. Eventually, when the Congressional Credit Union complained about large overdrafts on the couple's accounts, federal investigators began an inquiry into the campaign and financial activities of Mr. and Mrs. Waldholtz.

According to newspaper reports, on 11 November, 1995, Mr. Waldholtz, as treasurer of Enid '94, had promised to clear up matters regarding the questionable contributions to Enid '94 by bringing in executors of his family's trust from Pittsburgh, Pennsylvania to show that the money consisted of legal marital assets. However, when Mr. Waldholtz went to National Airport to pick up the executors, he disappeared and a warrant was subsequently issued for his arrest. Mr. Waldholtz surrendered to federal authorities six days later on 17 November, 1995. Ms. Greene filed for divorce on 14 November, 1995. The U.S. Attorney in Washington, D.C.

initiated a formal investigation, and Mr. Waldholtz was indicted on 2 May, 1996 on 27 counts of bank fraud. He pleaded guilty to bank, election and tax fraud in the U.S. District Court in Washington, D.C. on 5 June, 1996. Ms. Greene was also granted a divorce from Mr. Waldholtz on 5 June, 1996. Mr. Waldholtz was sentenced to 37 months in prison for bank, election and tax fraud on 7 November, 1996.

B. Alleged Violations

The complaint alleges that Mr. Waldholtz knowingly and willfully made eighty excessive contributions totaling at least \$1,821,543 to Enid '94 and Enid '96. Each of the eighty contributions were over \$1,000. The contributions were concealed in several ways. Twenty-eight contributions totaling at least \$984,000 were reported in Ms. Greene's name. Eleven contributions totaling \$18,325 were made in cash and not reported to the Commission.¹ Forty-one contributions totaling at least \$819,218 were made by transferring funds directly from personal checking accounts under Mr. Waldholtz's control into Enid '94 and Enid '96 campaign accounts. These contributions were not reported to the Commission.²

The complaint also alleges that of the 41 contributions totaling \$819,218, transferred from personal checking accounts into campaign accounts, Mr. Waldholtz knowingly and willfully commingled at least \$91,957 of those funds with his own personal funds or those of his relatives. He also failed to report the disbursements. According to the complaint, Mr. Waldholtz carried out the commingling scheme in various ways. In a series of twenty-five transactions,

¹ Of this amount, \$15,825 was contributed to Enid '94 and \$2,500 was contributed to Enid '96.

² The vast majority of the contributions, \$1,752,688, were made to Enid '94. Of that amount, \$1,569,413, consisting of 56 separate contributions, were made in 1994 and \$167,450 (consisting of seven separate contributions) were made to Enid '94 in 1995. A total of \$68,850 (consisting of 17 separate contributions) were made to Enid '96 in 1996.

Mr. Waldholtz transferred a total of \$63,374 directly from Enid '94 and Enid' 96 campaign accounts into personal bank accounts. For example, on 4 April, 1994, Mr. Waldholtz authorized a wire transfer of \$4,200 from the Enid '94 account to his personal Merrill Lynch account in Pittsburgh. Similarly, on 31 March, 1994 and 25 May, 1995, respectively, Mr. Waldholtz authorized wire transfers of \$3,000 from Enid '94 account to his mother's account and \$2,000 from Enid '96 account to his grandmother's account. In addition, on four occasions, Mr. Waldholtz deposited 36 campaign contribution checks to Enid '94 totaling \$2,883 into his personal checking account. On twelve occasions, he withdrew a total of \$6,200 in cash from Enid '94 and Enid '96 by using checks made out to "Cash." On seven occasions, he withdrew a total of \$5,500 from Enid '94 and Enid '96 accounts by making checks out to himself and then either cashing them or depositing them into his personal accounts. On three occasions, he also withdrew a total of \$8,000 out of the Enid '94 and '96 accounts by writing checks payable to Ms. Greene and then depositing the checks into one of their joint personal accounts. Those checks were deposited into the Congressional Federal Credit Union account without Ms. Greene's endorsement. Finally, on two occasions, he used \$6,000 from campaign accounts to pay personal VISA credit card debt by using a debit memo to transfer \$5,000 and a \$1,000 counter check.

The complaint further alleges that on the 1994 April Quarterly Report, Mr. Waldholtz falsely identified as contributors forty-three (43) individuals who either do not exist or did not contribute to Enid '94. The inclusion of the "ghost contributors" caused that report to overstate the amount of contributions received by \$66,450. Mr. Waldholtz also failed to report two \$1,000 contributions to Enid '94 from two individuals and an additional eight contributions in excess of

\$200. The complaint also alleges that Mr. Waldholtz accepted a \$1,000 corporate contribution from Keystone Promotions, Inc. as an individual contribution by F. Richard Call, the owner of Keystone.

Finally, the complaint alleges that Mr. Waldholtz may have improperly used his personal credit cards to pay for legitimate campaign expenses, but the complainants cannot provide the particulars of such transactions because they were unable to obtain appropriate records due to bank privacy laws.

The complaint acknowledges that the money which Mr. Waldholtz used to make the contributions at issue came from D. Forrest Greene, Ms. Greene's millionaire father, who had a seat on the Pacific Coast stock exchange. At some time earlier, Mr. Greene loaned Mr. Waldholtz approximately \$4,000,000 believing that Mr. Waldholtz himself was a millionaire whose funds were temporarily unavailable. The complaint states that Mr. Greene was unaware that the funds he had loaned Mr. Waldholtz were being transferred into the Enid '94 and Enid '96 campaign accounts. According to newspapers reports, Mr. Greene filed a lawsuit against Mr. Waldholtz for misuse of the \$4,000,000 at issue. A default judgment was entered against Mr. Waldholtz in July, 1996, and he was ordered to repay the \$4,000,000 to Mr. Greene.

In the complaint, Ms. Greene claims that she was unaware that the funds her father had loaned Mr. Waldholtz were being funneled into her campaigns. She believed that Mr. Waldholtz had given her \$5,000,000 to spend as she wished, which included spending the money on her campaign. She claims that Mr. Waldholtz told her that the \$5,000,000 wedding gift consisted of a trust fund made up mostly of real estate holdings which were tied up in litigation with other family members and, therefore, could not be quickly liquidated. When she needed money for her

1994 campaign, she asserts that her husband also told her he had inherited property in Pennsylvania worth \$2,200,000 and, as his wife, she was legally entitled to half. Moreover, Ms. Greene asserts that her father gave the couple the \$4,000,000 with the understanding that they would reimburse him from the purported trust fund. Ms. Greene also asserts that she believed, due to alleged misrepresentations by Mr. Waldholtz regarding the marital assets, that she had a legal right to transfer the corresponding funds to her campaign accounts.

According to newspaper reports, however, Ms. Greene has given various explanations about the source of the \$4,000,000 and the extent of her knowledge of the violations at issue. According to those reports, Ms. Greene initially described the funds as family money and then expanded on the description of the funds to say that they came from a highly liquid account. Ms. Greene then told prosecutors that her father had swapped assets with her husband to help generate cash. She also claimed that only after examining her campaign and personal financial affairs after Mr. Waldholtz's disappearance did she discover that Mr. Waldholtz was a fraud and that the campaign money had not come from his gift to her but had actually come from her father. She further claims that her father had secretly lent the \$4,000,000 to Mr. Waldholtz without telling her.³ In any event, on 12 December, 1995, Ms. Greene held a five-hour news conference in Salt Lake City, Utah, declaring herself the unwitting victim of a con man husband who embezzled money, defrauded banks and violated federal election laws.

³ According to an article that appeared in the 12 December, 1995 issue of The Washington Post, Ms. Greene proposed to her father that he give her money for the campaign in exchange for being assigned her interest in the property. Her father did so without seeing the property, reviewing a deed, or signing any document.

The complaint alleges that Mr. Waldholtz was able to conceal the schemes discussed above, in part, by over-reporting or under-reporting the amounts he contributed in Ms. Greene's name, by reporting contributions from individuals who either did not exist or did not contribute to Ms. Greene's campaigns, and by failing to report the cash contributions and other contributions from individuals who did contribute to her campaigns. According to the complaint, Mr. Waldholtz also had access to several joint personal checking accounts with Ms. Greene in addition to the campaign accounts mentioned above. The checking accounts were opened initially either as joint accounts or were opened by Ms. Greene or Mr. Waldholtz individually, and the other was subsequently added to the accounts. Five of the bank accounts were with First Security Bank of Salt Lake City, Utah, and two of the bank accounts were with the Congressional Credit Union in Washington, D.C. The accounts generally were opened on or after 19 May, 1993 and were closed in November, 1995.⁴ Mr. Waldholtz also had access to, and control over, three additional personal banking accounts of relatives at financial institutions in his hometown, Pittsburgh, Pennsylvania. One of those bank accounts was in Mr. Waldholtz's name, the other bank account was in the name of his mother, Barbara Waldholtz, and the other bank account was in the name of his grandmother, Rebecca Levenson.

Mr. Waldholtz did not respond to the complaint. However, in the plea agreement with the U. S. Attorney's Office signed on 3 June, 1996, Mr. Waldholtz admitted to violations of the Act. Specifically, he admitted to falsifying, signing, and filing the 1994 Year End Report for Enid '94 with the Commission. He also affirmed that in 1994, Mr. Greene deposited approximately \$2,800,000 into his and Ms. Greene's personal bank accounts and that almost

⁴ One account was opened by Ms. Greene on 8 October, 1986, Mr. Waldholtz was added to the account on 29 October, 1993, and it was closed in November 1995.

\$1,800,000 of that money was transferred to Enid '94. He also admitted that he subsequently reported on various FEC Reports, including the 1994 Year End Report, that the funds were Ms. Greene's personal assets. Finally, he admitted that he included "ghost contributors" on reports filed with the Commission on behalf of the Enid '94 committee.

C. Law

The Federal Election Campaign Act of 1971, as amended ("the Act") requires a political committee to file periodic reports identifying each person who makes a contribution to the reporting committee during the reporting period, whose contribution or contributions total more than \$200 within the calendar year, together with the date and amount of any such contribution. 2 U.S.C. § 434(b)(3)(A). The Act also requires a political committee to file periodic reports identifying the name and address of each person who has received any disbursement over \$200 within the calendar year, together with the date and amount of any such disbursement.

2 U.S.C. § 434(b)(6)(A).

Section 441a of the Act prohibits any person from making contributions to any candidate or an authorized political committee with respect to any election for Federal office which, in the aggregate, exceed \$1,000. 2 U.S.C. § 441a(a)(1)(A). This provision also prohibits any individual from making contributions aggregating more than \$25,000 in any calendar year. 2 U.S.C. § 441a(a)(3). Section 441a also provides that no officer or employee of a political committee shall knowingly accept a contribution made for the benefit or use of a candidate, or knowingly make any expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under this section. 2 U.S.C. § 441a(f).

Section 441b of the Act makes it unlawful for any corporation to make a contribution or expenditure in connection with any election to any political office, or for any candidate, political committee, or other person knowingly to accept or receive any contribution prohibited by this section, or any officer or any director of any corporation to consent to any contribution or expenditure by the corporation. 2 U.S.C. § 441b(a).

The Act also provides that no person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person. 2 U.S.C. § 441f. A political committee is a person under the Act. 2 U.S.C. § 431(11).

The Act further provides that no person shall make contributions of currency of the United States or currency of any foreign country to or for the benefit of any candidate which, in the aggregate, exceed \$100, with respect to any campaign of such candidate for nomination for election, or for election, to Federal office. 2 U.S.C. § 441g. In addition, section 110.4(c)(2) of the Commission's regulations requires a candidate or committee to promptly return cash contributions in excess of \$100 to the contributor. 11 C.F.R. § 110.4(c)(2).

D. Analysis

Based on committee reports on file with the Commission, and the complaint, which is supported by considerable documentation and a detailed analysis conducted by Coopers & Lybrand, an independent accounting firm, Enid '94 and Enid Greene, as treasurer and Enid '96 and Enid Greene, as treasurer, accepted eighty excessive contributions totaling at least \$1,821,543 from D. Forrest Greene through Joseph Waldholtz. Each of the eighty contributions were over \$1,000. The contributions were concealed in several ways. Twenty-eight

contributions totaling at least \$984,000 were reported in the name of Ms. Greene. Forty-one contributions totaling at least \$819,218 were made by transferring funds directly from personal checking accounts under Mr. Waldholtz's control into Enid '94 and Enid '96 campaign accounts and were not reported to the Commission. Eleven contributions totaling \$18,325 were made in cash and also were not reported to the Commission. In addition, the evidence shows that forty-three individuals who either do not exist or did not contribute to Enid '94 were falsely identified as contributors on the 1994 April Quarterly Report. Furthermore, two additional \$1,000 contributions to Enid '94 from two individuals and an additional eight contributions from individuals in excess of \$200 were not reported to the Commission. Finally, the evidence shows that Enid '94 accepted a \$1,000 corporate contribution from Keystone Promotions, Inc. as an individual contribution by F. Richard Call, the owner of Keystone.

Therefore, there is reason to believe that Enid '94 and Enid Greene, as treasurer, and Enid '96 and Enid Greene, as treasurer, violated the following provisions of the Act: 2 U.S.C. § 434(b), by failing to report numerous contributions and for filing inaccurate reports; 2 U.S.C. § 441a(f), by knowingly accepting contributions in violation of the limitations imposed by section 441a; 2 U.S.C. § 441f, by accepting contributions in the name of another; and 11 C.F.R. § 110.4(c)(2), by failing to return cash contributions in excess of \$100. In addition, there is reason to believe that Enid '94 and Enid Greene, as treasurer, violated 2 U.S.C. § 441b(a), by accepting a \$1,000 corporate contribution from Keystone Productions, Inc.